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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,747	12/08/2003	Lynn Robie	22779.01	9316

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EXAMINER

SANTOS, ROBERT G

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/728,747	Applicant(s) ROBIE, LYNN	
	Examiner Robert G. Santos	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. <u>10272004</u> . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 18, 20-22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinchen et al. '713 in view of Rist '346. Kinchen et al. '713 are considered to teach all of the limitations as recited in claims 18 and 20-22 (note especially Figure 2; page 1, paragraph 13; page 2, paragraph 18; page 4, paragraphs 54, 55 & 59; and page 5, paragraph 73) except for a condition wherein at least one of the plurality of pockets (54, 56, 58) is defined between an ornamental design in the shape of a cross and the outer casing (to which the design is fastened). Rist '346 provides the basic teaching of a cushioned element (14) comprising a fabric piece (80) in the shape of an ornamental design (as described in column 3, lines 58-62) attached to the outer casing (55) of the cushioned element and defining a pocket therebetween. The skilled artisan would have found it obvious at the time the invention was made to provide the prayer cushion and aid of Kinchen et al. '713 with at least one pocket defined between an ornamental design in the shape of a cross and the outer casing in order to provide a decorative feature which helps to impart a feeling of security, thereby ensuring enhanced user comfort (see Rist '346, column 3, lines 58-68).

With regards to claim 24, Kinchen et al. '713, as modified by Rist '346, also do not specifically disclose conditions wherein the outer casing (20) resembles a bear paw and wherein the at least one pocket (54, 56, 58) resembles a plurality of toe pads with a sole pad. It would have been an obvious matter of design choice to modify the outer casing of the prayer cushion and aid of Kinchen et al. '713, as modified by Rist '346, such that it resembled a bear paw and such that the pockets of Kinchen et al. '713, as modified by Rist '346, resembled a plurality of toe pads with a sole pad since a mere change in the size or shape of a component is generally recognized as being within the level of ordinary skill in the art.

3. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kinchen et al. '713 in view of Rist '346, and further in view of Mack et al. '972. Kinchen et al. '713, as modified by Rist '346, do not specifically disclose the use of an overlapping pair of pockets. Mack et al. '972 provide the basic teaching of a bedside article carrying device (10) comprising an overlapping pair of pockets (19). The skilled artisan would have found it obvious at the time the invention was made to provide the prayer cushion and aid of Kinchen et al. '713, as modified by Rist '346, with an overlapping pair of pockets in order to provide a simple alternative pocket configuration for holding at least one prayer card as desired.

4. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kinchen et al. '337 in view of Rist '346, and further in view of Lemke '297. Kinchen et al. '713, as modified by Rist '346, do not specifically disclose a condition wherein the outer casing further comprises an inner lining having a pocket defined therein. Lemke '297 provides the basic teaching of a

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support device (10) comprising an outer casing (11) including an inner lining having a pocket (24) defined therein. The skilled artisan would have found it obvious at the time the invention was made to provide the prayer cushion and aid of Kinchen et al. '713, as modified by Rist '346, with an outer casing further comprising an inner lining having a pocket defined therein in order to provide a simple additional means for holding or concealing at least one prayer card as desired. Furthermore, Kinchen et al. '713, as modified by Rist '346, do not specifically disclose conditions wherein the outer casing (20) resembles a shirt and wherein the at least one pocket (54, 56, 58) resembles a shirt breast pocket and a seam pocket. It would have also been an obvious matter of design choice to modify the outer cover of Kinchen et al. '713, as modified by Rist '346, such that it resembled a shirt or bear paw and such that the pockets of Kinchen et al. '713, as modified by Rist '346, resembled a shirt breast pocket and a seam pocket since a mere change in the size or shape of a component is generally recognized as being within the level of ordinary skill in the art.

Response to Amendment

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Raphael-Davis et al. '892, Raphael-Davis et al. '337, Pratt '643 and Blau '929.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (703) 308-7469. The examiner can normally be reached on Tues-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Robert G. Santos
Primary Examiner
Art Unit 3673

R.S.
February 3, 2005